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Dated: February 7, 2011

Electronic Signature for Davy E. Zoneraich: /Davy E. Zoneraich/

**EXPEDITED PROCEDURE**

Group Art Unit: 2452

Docket No.: SONYJP 3.0-1020

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:	:
Makoto Akune	:
	:
Application No.: 10/666,496	: Group Art Unit: 2452
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	:
Filed: September 19, 2003	: Examiner: T. J. Dailey
	:
	:
For: DATA DISTRIBUTION METHOD,	:
SERVER, AND TERMINAL	:

**AMENDMENT UNDER 37 CFR § 1.116**

MS AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In response to the Office Action dated December 8, 2010, finally rejecting claims **28-34**, please amend the above-identified U.S. patent application as follows:

**IN THE CLAIMS**

1-27. (canceled)

28. (currently amended) A content server for distributing upgraded content data, comprising:

a network interface for receiving an upgrade request from a user for content data previously downloaded by the user from the content server as base data of a first format selected by the user from a plurality of predetermined base data formats; wherein the upgrade request specifies a target format of a higher quality than the first format and the target format is from at least one predetermined upgrade data format determined to have an upgradable relationship with the first format selected;

a storage unit having a user-related information section for checking user-related information of the base data previously downloaded by the user;

an upgrading-data generating unit for generating upgrading data of the content data to upgrade the previously downloaded base data of the first format to the target format, the upgrading-data being generated on a user-to-user basis by reviewing a usage-history of the user to determine the first format and then calculating the difference between the data in the first format and the data in the target format; and

the network interface transmitting the upgrading data to the user in response to the upgrade request,

the base data representing the content at a first quality, and the upgrading data being difference data that is combined with the base data to generate data representing the content at a second quality that is higher than the first quality, and

the difference data being formed by subtracting the data in the first format from the data in the target format.

29. (previously presented) The content server according to claim 28, wherein the base data includes a header comprising content-grade identification information indicating the first format.

30. (previously presented) The content server according to claim 28, wherein the higher quality is at least one of a higher sampling frequency and a higher bit rate of the content data.

31. (currently amended) A personal terminal for the playback of content data, comprising:

a network interface for sending an upgrade request to a content server for content data previously downloaded by a user as base data of a first format selected by the user from a plurality of predetermined base data formats and receiving upgrading-data of the content data in response; wherein the upgrade request specifies a target format of a higher quality than the first format, the target format being from at least one predetermined upgrade data format determined to have an upgradable relationship with the first format selected, and the upgrading-data being generated on a user-to-user basis by reviewing a usage-history of the user to determine the first format and then calculating the difference between the data in the first format and the data in the target format;

a content-data combining unit for combining the upgrading data with the previously downloaded base data, whereby the base data is upgraded to the target format; and

an audio-signal processing unit for playback of the upgraded base data having the target format,

the base data representing the content at a first quality, and the upgrading data being difference data that is combined with the base data to generate data representing the content at a second quality that is higher than the first quality, and

the difference data being formed by subtracting the data in the first format from the data in the target format.

32. (previously presented) The personal terminal according to claim 31, wherein the base data includes a header comprising content-grade identification information indicating the first format.

33. (previously presented) The personal terminal according to claim 31, wherein the higher quality is at least one of a higher sampling frequency and a higher bit rate of the content data.

34. (currently amended) A method of distributing upgraded content data, comprising the steps of:

receiving an upgrade request from a user for content data previously downloaded as base data of a first format from a server and selected by the user from a plurality of predetermined base data formats; wherein the upgrade request specifies a target format of a higher quality than the first format and wherein the target format is from at least one predetermined upgrade data format determined to have an upgradable relationship with the first format selected;

checking user-related information in the server of the base data previously downloaded by the user;

generating upgrading data of the content data to upgrade the previously downloaded base data of the first format to the target format, the upgrading-data being generated on a user-to-user basis by reviewing a usage-history of the user to determine the first format and then calculating the difference between the data in the first format and the data in the target format; and

transmitting the upgrading data to the user in response to the upgrade request,

the base data representing the content at a first quality, and the upgrading data being difference data that is combined with the base data to generate data representing the content at a second quality that is higher than the first quality, and

the difference data being formed by subtracting the data in the first format from the data in the target format.

**REMARKS/ARGUMENTS**

Claims 28, 31 and 34 have been amended. Claims 28-34 are pending in the application.

Claims 28-34 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kidder (U.S. Patent 6,363,413) in view of Watanabe (U.S. Patent 6,430,354) and Boykin (U.S. Pub. No. 2001/0042048).

Amended independent claim 28, in relevant part, recites:

a network interface for receiving an upgrade request from a user for content data previously downloaded by the user from the content server as base data of a first format selected by the user from a plurality of predetermined base data formats; wherein the upgrade request specifies a target format of a higher quality than the first format and the target format is from at least one predetermined upgrade data format determined to have an upgradable relationship with the first format selected

(Emphasis added). Accordingly, a content server for distributing upgraded content data of claim 1 may receive an upgrade request from a user for content data previously downloaded by the user from the content server as base data of a first format selected from a plurality of predetermined base data formats. Claim 1 further requires that a target format, which is specified in the upgrade request, has a higher quality than the first format, and is "from at least one predetermined format determined to have an upgradable relationship with the first format selected." (Emphasis added; see specification, for example, pg. 34, ln. 20-pg. 35, ln. 4 and FIG. 8). Consequently, the user is allowed to select a format (target format) of upgrading data to be downloaded from one or more upgrade data formats determined to have an upgradable relationship with a first format (base data format) selected by the user for previously

downloading base data. (See specification, for example, pg. 27, ln. 24-pg. 28, ln. 8).

The applied portions of Kidder, Watanabe and Boykin do not appear to disclose the above-described features that the upgrade request specifies a target format from at least one predetermined format "determined to have an upgradable relationship with the first format selected," as now specifically recited in independent 28.

Accordingly, for at least this reason, independent claim 28 is distinguishable over the applied combination of Kidder, Watanabe and Boykin.

In addition, amended independent claims 31 and 34, which include limitations corresponding to those of claim 28 described above, also are distinguishable over Kidder, Watanabe and Boykin as applied by the Examiner for at least the same reasons.

Further, dependent claims 29, 30, 32, and 33, which depend from one of independent claims 28 and 31, are patentable over the applied combination of Kidder, Watanabe and Boykin for at least the same reasons as discussed in connection with the independent claims, and because of the additional restrictions they require.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone applicant's attorney at (908) 654-

5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: February 7, 2011

Respectfully submitted,

Electronic signature:

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